UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1994/NGO/10
4 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda items 10 and 11

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

PREVENTION OF DISCRIMINATION AGAINST WOMEN

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[27 July 1994]

GE.94-13399 (E)

Administration of Justice in Northern Ireland

1. The International Federation of Human Rights (IFHR) and its Northern Ireland correspondent, the Committee on the Administration of Justice (CAJ), remain concerned about attacks on the right to legal advice, the absence of protection for lawyers and the lack of adequate safeguards to prevent the ill-treatment of detainees held under emergency legislation in Northern Ireland.

2. These issues have been the subject of comment and concern at the Human Rights Committee in April 1991, the Committee against Torture in November 1991, the Sub-Commission in August 1992, the Commission on Human Rights in February 1993, the Sub-Commission in August 1993 and the Commission on Human Rights in February 1994. Furthermore, in response to international concern, the European Committee for the Prevention of Torture carried out an ad hoc visit to Northern Ireland in July 1993.

3. It is the view of the IFHR and CAJ that the United Kingdom Government has failed to remedy these problems in spite of continued concerns expressed by United Nations bodies and the international human rights community. Rather, the response from the United Kingdom Government has often been to attempt to deflect attention from its own violations by highlighting the ongoing and serious campaign of violence waged by illegal paramilitary organizations in Northern Ireland. The IFHR and CAJ are concerned that the United Kingdom Government appears to be justifying its abuses on the grounds that others are engaged in the abuse of human rights. IFHR and CAJ are convinced that threats against lawyers, attacks on the right to independent legal advice and ill-treatment of detainees can have no place in the creation of a more just and peaceful society.

Access to legal advice and the situation of lawyers

4. Detainees held under emergency legislation in Northern Ireland can be kept incommunicado for up to 48 hours. They can be denied access to their lawyers for up to 48 hours and, once granted, access can be denied for further periods of 48 hours thereafter. Detainees can be held for up to seven days without being brought before a court, a power found to be in breach of the European Convention on Human Rights. The United Kingdom has derogated from article 5 (3) of the Convention and article 9 (3) of the International Covenant on Civil and Political Rights.

5. In clear contravention of paragraph 8 of the United Nations Basic Principles on the Role of Lawyers, police officers in Northern Ireland are empowered to be within both the sight and hearing of legal consultations. Furthermore, detainees arrested under emergency legislation in Northern Ireland are never allowed to have their lawyers present when they are being interviewed. Such differential access to legal advice cannot be acceptable and suggests an official hostility and distrust of lawyers in Northern Ireland.

6. CAJ and IFHR continue to receive reports that some police officers make derogatory comments and threats against the lives of lawyers via their clients. These derogatory comments and threats relate to some 41 different

lawyers in Northern Ireland. This is a long-standing problem which has been raised in previous reports of the Special Rapporteur on the independence of the judiciary and the protection of practising lawyers. CAJ and IFHR remain troubled by the lack of an adequate response to this serious issue and are concerned that those police officers involved are acting with impunity. The independent expert from the United Kingdom on the Sub-Commission has also voiced her concerns on several occasions at the lack of proper investigations into this matter by the United Kingdom Government. Police investigation into matters alleging serious police misconduct is unlikely to establish the truth or assuage public concern. A properly independent inquiry is urgently required to investigate these matters.

7. Related to the ongoing report of threats against lawyers is the still unsolved 1989 killing of defence lawyer Pat Finucane. There is strong evidence of official collusion in Mr. Finucane's death. The independent expert from the United Kingdom on the Sub-Commission, the IFHR, CAJ and others in the international human rights community have called for an independent inquiry into Mr. Finucane's killing. The United Kingdom Government has failed to establish such an inquiry. The IFHR and CAJ understand that an English police officer, Mr. John Stevens, has been considering the evidence of collusion in Mr. Finucane's killing for over one year but as yet there has been no decision to prosecute those involved. The IFHR and CAJ are seriously concerned at the apparent inaction in relation to the investigation of official involvement and collusion in Mr. Finucane's death. As a result a dossier on the case has been submitted to the United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions.

8. In December 1992, in response to widespread concerns that detainees were being ill-treated in Northern Ireland and in particular the disquiet expressed by the United Nations Committee against Torture, the United Kingdom Government appointed an "independent commissioner" with powers to visit the holding centres where detainees arrested under emergency legislation are interrogated. CAJ and IFHR are disappointed that in his first report as "Independent Commissioner for the Holding Centres", Sir Louis Blom Cooper failed to even mention the ongoing local and international concerns that some police officers make derogatory comments and threats towards lawyers. This is despite the fact that lawyers and NGOs have made representations to him. We are concerned that he has proposed the establishment of a legal advice unit at the holding centres which, if implemented, would infringe the right of detainees to choose their own lawyer. In the view of IFHR and CAJ his proposals on legal advice contravene paragraph 5 of the United Nations Basic Principles on the Role of Lawyers. The Northern Ireland Law Society has also criticized these proposals and points out that they attack the established right of United Kingdom citizens to the lawyer of their choice.

Safeguards to prevent ill-treatment of detainees

9. In May 1994, in response to recommendations from the Independent Commissioner for the Holding Centres and the Government-appointed reviewer of emergency legislation, the Government again refused to introduce the safeguard of electronic recording of police interrogations of detainees held under emergency legislation. Such a safeguard would protect detainees from

ill-treatment and the police from false accusations and has been proposed by a long line of Government-appointed reviewers and local and international independent human rights organizations.

10. In remains the view of the IFHR and the CAJ that the United Kingdom Government has failed to put in place adequate safeguards to prevent the ill-treatment of detainees. While the number of complaints of serious physical ill-treatment has considerably fallen since the 1991 intervention by the United Nations Committee against Torture, CAJ and IFHR continue to receive complaints from detainees of less serious physical abuse and psychological ill-treatment.

11. The system established by the Government to investigate complaints against the police has over the last six years failed to substantiate a single complaint of ill-treatment of detainees held under emergency legislation. This amounts to impunity. It is the view of IFHR and the CAJ that it requires urgent reform and in particular that complaints should no longer be investigated by police officers.

12. In July 1993, the European Committee for the Prevention of Torture made an ad hoc visit to Northern Ireland to examine the situation of detainees and the regime under which they are held. As yet the United Kingdom Government has failed to publish the report prepared by the Committee after its visit. The IFHR and CAJ are of the view that the Government should publish this report and urge them to do so.

13. In conclusion, the IFHR and CAJ would respectfully request the Sub-Commission on Prevention of Discrimination and the Protection of Minorities to urge the United Kingdom Government to comply with its responsibilities in international human rights law and in particular the United Nations Basic Principles on the Role of Lawyers.